THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 6864 OF 1998

18.04.2007

Between:

The Vice Chairman & Managing Director,
A.P.S.R.T.C., Hyderabad

… Petitioner

And:

The Presiding Officer, Labour Court-I,
AP, Hyderabad and other

… Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 6864 OF 1998

ORAL ORDER :

The APSRTC assails the award dated 8.12.1997 on the file of the Labour Court-II, Hyderabad in ID No. 412 of 1993.

In G.O.Rt.No. 605, Women Development, Child Welfare & Labour (Lab.I) Department, dated 3.8.1991 the Government of Andhra Pradesh u/Sec. 10 (1)(d) of the Industrial Disputes Act 1947 ('the Act') referred the following dispute for resolution to the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad :

> *"Whether the demands raised by A.P.S.R.T.C. Employees Union through its charter of demands dated 12.7.1988 except demand No.1 are justified ?*
>
> *If not to what relief the workmen are entitled to ?"*

It was initially registered as ID No. 165/91 and on transfer

to the Labour Court-I, on the point of jurisdiction was renumbered as ID NO.412/97. In this writ petition the challenge to the award is confined to the conclusions on two of the issues referred for resolution by the Labour Court. These are issue Nos. 2 and 26.

Issue No.2 relates to staff norms. The employees claimed maintenance of the norm of 8.5 employees per bus during the slack season and that this norm should not have been lowered. There was a settlement dated 10.3.1986, arrived at u/Sec. 12 of the Act (Ex.W1) whereunder it was agreed that there should be a study of the working of similar Corporations in Tamilnadu and Karnataka by a team consisting the Executive Director (Administration) and the Chief Industrial Engineer who represent the Management and the Secretary General and any other nominee of the Union, to study the working in sister Corporations. According to the settlement, appropriate recommendations for adoption by the APSRTC would be made after such study, which could be completed by 15.8.1986 and till then the present system of 8.5 employees per bus during slack seasons schedule, would not be lowered. By another Memorandum of Understanding dated 25.5.1995 (Ex.M25), the period for the conclusion of the study was extended. The study was not however pursued and no steps were taken to conclude the study and to make appropriate recommendations. In the circumstances the union requested that the norm of 8.5 employees per bus during the slack season should be maintained.

The Tribunal by the award impugned herein and in view of the specific clause in the settlement u/Sec. 12 of the Act, directed the writ petitioner Management to maintain the staff norm originally contained in Ex.W4 without reduction till the joint

study is completed and finalized.

The other issue relates to alternate jobs to the medically unfit Drivers. Initially as per a Memorandum of Settlement dated 22.12.1986 it was agreed that to the extent possible, suitable alternative jobs should be identified for medically unfit Drivers and if it is not possible to identify suitable alternative jobs, additional monetary benefits as per the proposal sent to the Government should be given after Government approval. Thereafter the regulations were altered without notice to the employees as required u/Sec. 9A of the Act, thus altering the conditions of service.

On the above aspect of the matter, the Tribunal found that the altered regulations cause hardship in case of medically unfit Drivers and other employees who have been forcibly retired on medical grounds.

The Tribunal held that the medically invalidated employees should be provided alternative jobs depending on their medical condition. Accordingly, the Tribunal directed the respondent-Management to identify and give additional alternative jobs as per Regulations and the understanding as per the settlement dated 22.12.1986 with the employees and may also consider payment of additional monetary benefits as were being paid previously.

This issue and the findings of the Industrial Tribunal on this aspect are merely academic now. The benefits payable to medically invalidated personnel is now governed by an Act of Parliament – The Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) act, 1995 [Act 1 of 1996], an Act of Parliament enacted pursuant to a treaty obligation. Section 47 of this Act enjoins that persons who cannot be gainfully employed in the positions they were

holding on account of any of the specified medical disability should be given alternative employment or should be paid the last salary drawn. In view of this legislative obligation, the direction of the Industrial Tribunal in the award impugned cannot be found fault.

For the aforesaid reasons there are no merits in the writ petition. The writ petition is accordingly dismissed. No order as to costs.

Dt: 18.04.2007 ----------

Pvsn/Tsnr Justice G.Raghuram